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**Date:** August 13, 2007**LTC ME Bulletin Number: 07-12****To:** Eligibility Services – Regional Director  
for MEPD  
Regional Attorneys  
Hearings Officers**Effective Date:** September 1, 2007**From:** Joanne Molina  
Associate Commissioner  
Family Services  
State Office 2073**Subject:** Incurred Medical Expense  
DME Fee Schedule  
ADA Survey of Fees

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This bulletin is being sent to the Office of Eligibility Services' (OES) Regional Director for **Medicaid for the Elderly and People with Disabilities (MEPD)** and other regional staff. This information is to be shared with all those who determine eligibility for **MEPD**. Please ensure copies are provided to staff that do not have access to e-mail. If you have any questions regarding the policy information in this bulletin, follow regional procedures. This bulletin will be available on the Family Services website at <http://ofs.hhsc.state.tx.us/policy/LTCbulletins.aspx> and as a part of the online Health and Human Services Commission (HHSC) Medicaid Eligibility Handbook (MEH) at <http://www.dads.state.tx.us/handbooks/meh/res/policy/index.htm>.

## Background

Based on Section 5, S.B. 1188, 79<sup>th</sup> Legislature, Regular Session, 2005, a Durable Medical Equipment (DME) fee schedule and an ADA (American Dental Association) Survey of Fees are being implemented for reimbursable incurred medical expenses (IME) for:

- DME for Medicaid residents in nursing facilities (NF) and Intermediate Care Facilities for the Mentally Retarded (ICFs/MR)
- Dental services for Medicaid recipients in NFs

A recipient in an ICF/MR receives dental care through the Medicaid program. Do not consider dental costs as an allowable IME for a recipient in an ICF/MR.

Allowable IMEs for DMEs are based on the Medicare DME fee schedule.

Allowable IMEs for dental services are based on the ADA's Survey of Fees at the 90<sup>th</sup> percentile for the West South Central Region.

## **Effective Date**

For all Form H1263s with a client signature and date prior to September 1, 2007, process the IME requests according to processes outlined in the memorandum entitled, "Incurred Medical Expenses (IMEs) for Nursing Facility Residents" dated June 8, 2004, and the memorandum entitled, "Dental Incurred Medical Expenses (IMEs) for Nursing Facility Residents" dated September 10, 2004.

For all Form H1263s with a client signature and date of September 1, 2007, or later, use the policy contained in this bulletin.

Do not require a new Form H1263 for any pending requests containing a client signature and date prior to September 1, 2007.

## **New Policy**

Effective for Form H1263s with a client signature and date of September 1, 2007 or later, this process supersedes the memorandum entitled, "Incurred Medical Expenses (IMEs) for Nursing Facility Residents" dated June 8, 2004, and the memorandum entitled, "Dental Incurred Medical Expenses (IMEs) for Nursing Facility Residents" dated September 10, 2004.

Only the following individuals can request a deduction from the client's personal income to pay for dental services:

- Client
- Client's authorized representative
- Client's primary practitioner, i.e. the nursing facility attending practitioner
- Nursing facility administrator or representative, e.g. social worker
- Nursing facility Director of Nurses

## **Forms**

Federal regulation requires that IME deductions are for necessary medical care. The attending practitioner's signature and specific language certifying medical necessity is required on the Form H1263A for a DME or other IME request. The attending practitioner's signature and specific language certifying that the dental procedure(s) is not medically contraindicated for the client is required on the Form H1263B for a dental IME request.

Form H1263 and Form 1263-A are deleted. Two versions of the Form H1263 now exist:

- H1263A, Certification of Medical Necessity – Durable Medical Equipment and Other IME
- H1263B, Certification of No Medical Contraindication - Dental

The Forms H1263A and H1263B attached with this bulletin supersede any Form H1263s and H1263As utilized previously. Use the appropriate form for any IME request on or after September 1, 2007.

**Note:** Form H1263A or H1263B does not have to be requested directly from an MEPD specialist. The form will be available in the MEH at least by the January 2008 revision. Until that revision can be made, the form can be accessed as part of the policy bulletins in the MEH at <http://www.dads.state.tx.us/handbooks/meh/res/policy/index.htm>. Faxes are acceptable in order to start the process, but the original Form H1263A or H1263B, containing original signatures and dates of the client or the client's authorized representative and attending practitioner are required for final approval of the IME and income deduction.

A Form H1263B, Certification of No Medical Contraindication – Dental, is required for any new treatment plan for an individual.

There are no restrictions on who may begin to complete the Form H1263A or H1263B; however, the form must contain original signatures and dates of the client or the client's authorized representative and attending practitioner.

The requestor is responsible for making sure that the Form H1263A or H1263B is properly completed and all required signatures are obtained.

By signing the Form H1263A or H1263B, the client is requesting an income deduction to pay for an incurred medical expense.

### **Dental**

Emergency dental services are reimbursed through the Department of Aging and Disability Services (DADS) for all residents of NFs and are not an allowable IME.

The ADA Survey of Fees is located on the OFS website at <http://ofs.hhsc.state.tx.us/policy/LTCFeeSchedules.aspx> and contains the ADA's current dental terminology (CDT) codes at the 90<sup>th</sup> percentile for the West South Central Region. The ADA Survey of Fees is valid for 05/2007 through 04/2008. The CDT codes are separated between routine and non-routine. **Due to legal liabilities associated with the copyright for the ADA Survey of Fees, the ADA Survey of**

**Fees is a view-only internal document and is only accessible by HHS enterprise employees. Do not print, make copies or distribute any of the ADA Survey of Fees.**

The amount allowed for a particular code cannot exceed the amount listed on the ADA Survey of Fees. If the dental provider submits a charge with an amount greater than the maximum allowable amount listed for that particular code on the ADA Survey of Fees, allow the amount listed on the ADA Survey of Fees for that particular code as an IME deduction. If the dental provider submits a charge with an amount less than the maximum allowable amount listed for that particular code on the ADA Survey of Fees, allow the amount submitted by the provider as an IME deduction.

Example: The dental provider submits a charge for ADA code D0272 with the amount of \$45. The ADA code D0272, under Radiographs, reflects a maximum of \$37.74. Consider \$37.74 as an IME deduction.

Example: The dental provider submits a charge for ADA code D0150 with the amount of \$60. The ADA code D0150, under Clinical Oral Evaluation, reflects a maximum of \$72.15. Consider \$60 as an IME deduction.

Any CDT code(s) listed on the ADA Survey of Fees is allowable as an IME deduction. The following items are either not listed on the ADA Survey of Fees or remain unallowable as an IME:

- Adjustments to the fees for x-rays or other procedures performed by mobile dentists
- Sedation charges, CDT code D948
- More than 2 times per year per patient for dental cleaning and exam
- House call fees, CDT code D9410
- Further add-ons or increased fees for the initial denture and fittings

With the implementation of the ADA Survey of Fees, the role of the DADS regional nurse is to approve or deny the non-routine procedure. The MEPD specialist is to handle the other processes associated with an IME request.

The ADA Survey of Fees CDT codes are subject to change. Contact the dental provider to resolve the discrepancy if a treatment plan is received containing:

- a discrepancy in the CDT code and description,
- a CDT code not on the ADA Survey of Fees, or
- no CDT code listed

This may prevent a delay in approval of the IME. If the discrepancy cannot be resolved, submit the issue through the Policy Clearance Committee process to state office.

### **ADA Survey of Fees Rates**

The ADA Survey of Fees has been updated with current figures and is valid through April 2008. Staff will be notified when future yearly updates occur.

### **Routine Dental Procedures**

Prior approval of a procedure for an IME request for CDT codes on the Routine ADA Survey of Fees is not required before delivery of dental procedures.

The limits of cleaning and exam (up to 2 times per year per patient) and X-rays (1 time per year per patient) continue. The dental provider should not submit the charges for the second cleaning/exam prior to the second cleaning/exam being completed.

Routine dental services should be listed on a separate Form H1263B, Certification of No Medical Contraindication – Dental, than non-routine dental services. If the routine dental services are listed separately, it will expedite the process because the routine dental process doesn't require a DADS nurse review.

Allowable dental IME deductions are based on actual charges per CDT code(s) in the ADA Survey of Fees or the actual charges, if less. The limit of \$250 per patient, per year, for routine dental procedures has been removed.

Form H1263B, Certification of No Medical Contraindication – Dental, may be requested from an MEPD specialist or it is available online. The form must contain original signatures and dates of the client or the client's authorized representative and attending practitioner.

1. If the MEPD specialist receives a dental IME request, send Form H1263B, Certification of No Medical Contraindication - Dental, to the requestor within two working days of the receipt of the request.
2. The requestor is responsible for making sure that the Form H1263B, Certification of No Medical Contraindication – Dental is properly completed and all required signatures are obtained. The practitioner's signature and specific language certifying the dental procedure(s) for dental care is not medically contraindicated for the client is required on the Form H1263B, Certification of No Medical Contraindication – Dental. Practitioners are not required to sign off on the individualized plan of dental care. It is understood and expected that the dentist, consistent with the rules of the Texas State Board of Dental Examiners, will keep the practitioner apprised of treatment and consult with the practitioner whenever appropriate or necessary.
3. The dental provider assesses the client and consults with the attending practitioner to the full extent appropriate, and adheres to any special instructions from the attending practitioner.

### **Routine Dental Procedures**

4. The client or the client's authorized representative consents to the services and to the use of the client's income to pay for the services.
5. The dental provider delivers the routine dental services.
6. The requestor submits to the MEPD specialist the completed Form H1263B, Certification of No Medical Contraindication – Dental, with a dental invoice reflecting routine dental services provided, date of routine dental services and the appropriate CDT code(s). The MEPD specialist must document on the form the date the form was received by the agency.
7. Within ten working days of the receipt of the completed Form H1263B, Certification of No Medical Contraindication – Dental, and dental invoice, the MEPD specialist renders a decision by comparing the fees submitted by the dental provider to the appropriate code and charge on the ADA Survey of Fees. The MEPD specialist determines the correct amount of the client's applied income adjustment and ensures the entry into the appropriate automated system within 10 working days of being notified in accordance with MEH Section 4210, Review Cycles, for treatment of a change. The MEPD specialist also notifies the client of the adjusted amount of applied income using Form H4808, Notice of Change in Applied Income/Notice of Denial of Medical Assistance and/or Form H1259, Correction of Applied Income, in accordance with established agency notification requirements. Complete the same type of form that was sent to notify the client of the IME adjustment and mail to the provider with only the following information:
  - the particular claim that is approved
  - the client's co-pay or applied income is adjusted
  - the beginning month of the co-pay or applied income adjustment

To safeguard client confidentiality, do not send a notice to a provider that includes specific information about the client's finances, including sources of income, the amount of co-pay or applied income. Do not use auto-populated forms or a copy of the same notice that was sent to the client. If a provider inquires about a client's finances, refer them to the client or the client's authorized representative. Do not refer them to the nursing facility staff.

### **All Other Dental Procedures (Non-Routine)**

Use the Non-Routine ADA Survey of Fees CDT codes for non-routine dental procedures.

Form H1263B, Certification of No Medical Contraindication – Dental, may be requested from an MEPD specialist or it is available online. The form must contain original signatures and dates of the client or the client's authorized representative and attending practitioner.

Contact the dental provider to resolve the discrepancy if a treatment plan is received containing:

- a discrepancy in the CDT code and description,
- a CDT code not on the ADA Survey of Fees, or
- no CDT code listed

This may prevent a delay in approval of the IME. If the discrepancy cannot be resolved, submit the issue through the Policy Clearance Committee process to state office.

1. If the MEPD specialist receives a dental IME request, send Form H1263B, Certification of No Medical Contraindication - Dental, to the requestor within two working days of the receipt of the request.
2. The requestor is responsible for making sure that the Form H1263B, Certification of No Medical Contraindication – Dental is properly completed and all required signatures are obtained. The practitioner's signature and specific language certifying the dental procedure(s) for dental care is not medically contraindicated for the client is required on the Form H1263B. Practitioners are not required to sign off on the individualized plan of dental care. It is understood and expected that the dentist, consistent with the rules of the Texas State Board of Dental Examiners, will keep the practitioner apprised of treatment and consult with the practitioner whenever appropriate or necessary.
3. The dental provider will assess the client's needs and create a written treatment plan for the client. The written treatment plan must detail specifications for the requested service and must include:
  - Detailed explanation of dental procedures recommended;
  - Itemized listing of all equipment and accessories and costs;
  - The appropriate CDT code for each service;
  - The estimated date by which the services will be completely provided



### **All Other Dental Procedures (Non-Routine)**

4. The requestor submits the completed Form H1263B, Certification of No Medical Contraindication – Dental and the treatment plan to the MEPD specialist. The MEPD specialist reviews the form. If not completed correctly, the MEPD specialist returns the Form H1263B to the requestor notating the information needed or the sections requiring completion.
5. If the Form H1263B, Certification of No Medical Contraindication – Dental, is completed correctly, the MEPD specialist sends the Form H1263B along with the treatment plan to the DADS regional nurse for procedure approval or denial.
6. Within 5 working days of the receipt of the Form H1263B, Certification of No Medical Contraindication – Dental, and the treatment plan, the DADS regional nurse approves or denies the procedure for the IME request. If the DADS regional nurse determines that additional information is required, the nurse must notify the requestor and dental provider of all of the specific additional information needed.
7. Within 2 working days of the approval or denial decision, the DADS regional nurse provides written confirmation to the requestor, the dental provider, and the MEPD specialist by mailing or faxing a copy of the Form H1263B, Certification of No Medical Contraindication – Dental, reflecting the dental treatment plan is approved or denied and signature/date of the DADS regional nurse.
8. If denial is received from the DADS regional nurse, the MEPD specialist notifies the client and/or client's authorized representative of the denial using Form H4808, Notice of Change in Applied Income/Notice of Denial of Medical Assistance, in accordance with established agency notification requirements within two working days of being notified. Add a statement in the Comments section that the request for IME was not approved. Send a copy of the notice to the provider.
9. If the request is approved, the dental provider proceeds to deliver the requested service.
10. Applied income deductions are not allowed until after the request has been approved. If agreeable with the dental provider, the applied income deduction may be made after treatment is completed.
11. If approval is received from the DADS regional nurse, the MEPD specialist determines the correct amount of the client's applied income adjustment by comparing the fees submitted by the provider to the appropriate codes and charges on the ADA Survey of Fees and ensures the entry into the appropriate automated system within 10 working days of being notified in accordance with MEH Section

### **All Other Dental Procedures (Non-Routine)**

4210, Review Cycles, for treatment of a change. Within this same time frame, the MEPD specialist notifies the client of the applied income adjustment, using Form H4808, Notice of Change in Applied Income/Notice of Denial of Medical Assistance or Form H1259, Correction of Applied Income, in accordance with established agency notification requirements. Complete the same type of form that was sent to notify the client of the IME adjustment and mail to the provider with only the following information:

- The particular claim that is approved
- The client's co-pay or applied income is adjusted
- The beginning month of the co-pay or applied income adjustment

To safeguard client confidentiality, do not send a notice to a provider that includes specific information about the client's finances, including sources of income, the amount of co-pay or applied income. Do not use auto-populated forms or a copy of the same notice that was sent to the client. If a provider inquires about a client's finances, refer them to the client or the client's authorized representative. Do not refer them to the nursing facility staff.

Payment for services in accordance with the agreed treatment plan is a matter between the client and the dental provider, and does not involve the agency. However, the client or the client's payee is expected to actually pay the dental provider in a timely manner using the income that results from the agency's adjustment to the client's payment to the NF. If the MEPD specialist is notified the client has not appropriately used the deduction to pay the dental bill, the MEPD specialist consults with legal counsel as to the appropriate action to take.

## DME Procedures

The DADS regional nurses are not part of the process for DME IME requests.

The Medicare fee schedule for DME contains Healthcare Common Procedural Coding System (HCPCS) codes used by DME providers to file claims, and the Texas specific amounts allowed for claims with each code. This fee schedule is available on the Family Services website at <http://ofs.hhsc.state.tx.us/policy/LTCFeeSchedules.aspx>.

Allow, as an IME, amounts up to but not exceeding the Texas specific amount listed for a particular DME HCPCS code for a medically necessary DME. If the DME provider submits a charge with an amount greater than the Texas specific amount listed for that particular HCPCS code on the Medicare fee schedule, allow the Texas specific amount listed on the fee schedule for that particular HCPCS code as an IME deduction. If the DME provider submits a charge with an amount less than the Texas specific amount listed for that particular HCPCS code on the Medicare fee schedule, allow the amount listed by the provider as an IME deduction.

Form H1263A, Certification of Medical Necessity - Durable Medical Equipment or Other IME, may be requested from an MEPD specialist or it is available online. The form must contain original signatures and dates of the client or the client's authorized representative and attending practitioner. The requestor is responsible for making sure that the Form H1263A, Certification of Medical Necessity – Durable Medical Equipment and Other IME, is properly completed and all required signatures are obtained.

1. If the MEPD specialist receives an IME request, send Form H1263A, Certification of Medical Necessity – Durable Medical Equipment or Other IME, to the requestor within two working days of the receipt of the request.
2. Inform the requestor to have Form H1263A, Certification of Medical Necessity – Durable Medical Equipment or Other IME, completed and the service or equipment provider submit written, detailed specifications for the requested service or equipment to the NF attending practitioner after assessing the client's needs. The specifications must include the following:
  - Detailed explanation of medical equipment/services recommended,
  - Itemized listing of all equipment and accessories and costs
  - The appropriate DME HCPCS code for each service or equipment, and
  - Clear explanation of why the NF equipment will not meet the client's needs.

The client's attending practitioner, or a physician assistant or advance practice nurse employed by the attending practitioner, must sign and date the form that lists the medical procedure and the itemized list of equipment and accessories that includes the explanation of why the NF equipment is not adequate for the client.

### **DME Procedures**

3. The requestor submits to the MEPD specialist the completed Form H1263A, Certification of Medical Necessity – Durable Medical Equipment or Other IME, with a provider service statement reflecting service or equipment provided along with the appropriate HCPCS code(s). The MEPD specialist must document on the form the date the form was received by the agency.
4. Once the completed Form H1263A, Certification of Medical Necessity – Durable Medical Equipment or Other IME, written/detailed specifications and itemized list are received by an MEPD specialist, follow the DME information section of this bulletin and determine the correct amount of the client's applied income adjustment by comparing the fees submitted by the provider to the appropriate HCPCS codes and charges on the Medicare DME fee schedule within 10 working days in accordance with MEH Section 4210, Review Cycles, for treatment of a change. Within this same timeframe, ensure the entry into the appropriate automated system and notify the client of the applied income adjustment, using Form H4808, Notice of Change in Applied Income/Notice of Denial of Medical Assistance or Form H1259, Correction of Applied Income, in accordance with established agency notification requirements. Complete the same type of form that was sent to notify the client of the IME adjustment and mail to the provider with only the following information:
  - The particular claim that is approved
  - The client's co-pay or applied income is adjusted
  - The beginning month of the co-pay or applied income adjustment

To safeguard client confidentiality, do not send a notice to a provider that includes specific information about the client's finances, including sources of income, the amount of co-pay or applied income. Do not use auto-populated forms or a copy of the same notice that was sent to the client. If a provider inquires about a client's finances, refer them to the client or the client's authorized representative. Do not refer them to the nursing facility staff.

If there is no HCPCS code listed on the treatment plan:

- Contact the provider and request the code(s) or
- Contact a DADS regional nurse or
- Contact the MEPD Policy Section, State Office, at 512-206-4778 to request assistance with a crosswalk between a certain description and an HCPCS code.

## **DME Procedures**

### **Augmentative Communication Device System (ACD)**

Based on DADS rule in Texas Administrative Code, Title 40 §19.2613, the NF must provide the ACD if the need for the ACD is identified. Since this is allowed through the vendor payment process, it is no longer an allowable IME.